

**INITIAL STATEMENT OF REASONS
NON-CONTROLLING SUMMARY**

Sales and Use Tax Regulations 1591, *Medicines and Medical Devices*

Specific Purpose

The purpose of the proposed amendments to California Code of Regulations, title 18, sections 1591, *Medicines and Medical Devices*, is to amend, subdivision (b)(2), to clarify that tax does not apply to the sale of *all* “permanently implanted articles” including an implant’s interdependent internal and external components, which operate together as one device, in and on the person in whom the device is implanted (including ear implants), unless the device is excluded from the definition of “medicines.”

Necessity

This regulation is necessary to provide clarification to taxpayers and staff regarding the taxation of implanted medical devices.

Factual Basis

On February 27, 2008, the Board of Equalization (Board) heard a sales and use tax appeals case regarding the sales of cochlear implant devices. At issue was whether sales of the external components of the ear implant device qualified for exemption from tax in the same manner as the permanently implanted internal components. The petitioner explained that the internal and external components of the ear implant device are effectively one device, with each component mutually dependent on the other to function. Together, the internal and external components of the ear implant device assist in the functioning of the ear, each necessary and integral to the ongoing function of the ear and, as such, both qualify as “medicines.” The Board agreed with the petitioner and instructed staff to amend Regulation 1591 to clarify the matter.